

Long-Term Suspension and Expulsion for Students with Disabilities School Year 2007-2008

The Individuals with Disabilities Education Act Amendments of 2004, under §300.145, requires the State education agency to examine data to determine if significant discrepancies are occurring in the rate of long-term suspension and expulsion of children with disabilities (1) among local education agencies in the State; or (2) compared to such rates for nondisabled children within such agencies.

If such discrepancies are occurring, the State educational agency reviews, and if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that such policies, procedures, and practices comply with IDEA 2004.

To assist the South Dakota Special Education Programs in meeting these requirements, districts are asked to submit data on the suspension/expulsion of students with disabilities with information relative to **school year 2007-2008**

Data Definitions are located in Appendix A and Statue in Appendix B

Note: Section A through D has 3 parts

Note: Once you save the information for each section and part, “Form Data Saved Successfully**” will appear between the data entry and the section tabs in red.**

Department of Education and Cultural Affairs | Suspension / Expulsion Data Collection - Microsoft Internet Explorer provided b

Address: <http://doe.sd.gov/ofm/applications/suspexp/default.asp?section=D&form=1>

Log Off Data Collection

Table A: Numbers of Students Suspended/Expelled | Table B: Breakout by Disability Suspended/Expelled | Table C: Breakout by Race: Suspended/Expelled | Table D: Breakout by Disability: Students Removed | SECTION E: EXPULSION WITH & WITHOUT disability

Part 1 | Part 2 | Part 3

Form Data Saved Successfully

SECTION D: REMOVAL BY LEP STATUS

Children with Disabilities Ages 3-21

Disability	A. Number of Children	B. Number of Removals for Drugs	C. Number of Removals for Weapons	D. Number of Removals for Serious Bodily Injury	Number of Children
1. Yes	0	2	0	0	0
2. No	1	0	0	0	0
3. Total	1	2	0	0	0

2. Removals to an Interim Alternative Educational Setting Based on a Hearing Officer Determination Regarding Likely Injury

Save

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DIRECTIONS

After logging in, the data collection screen for suspension and expulsion data will come up:

If you have no students to report, click the No Suspensions/Expulsions button below your district's name.

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Suspension & Expulsion Data

Table A: Breakdown by Disability
Table B: Breakdown by Race
Table C: Breakdown by Gender
Table D: Breakdown by LEP Status
SECTION E: Expulsion with & without disability

Title: Test
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School Year: 2008 - 2009

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SECTION A
REPORT OF CHILDREN WITH DISABILITIES SUBJECT TO DISCIPLINARY REMOVAL
SCHOOL YEAR 2008

SECTION A: REMOVAL BY DISABILITY

Children with Disabilities Ages 3-21	1. Removals to an Interim Alternative Educational Setting by School Personnel				2. Removals to an Interim Alternative Educational Setting Based on a Hearing Officer Determination	3. Out of School Suspensions or Expulsions		4. In-School Suspensions		5. Disciplinary Removals			
	A. No. of Children	B. No. of Removals for Drugs	C. No. of Removals for Weapons	D. No. of Removals for Serious Bodily Injury		A. No. of Children Totalling <= 10 Days	B. No. of Children Totalling > 10 Days	A. No. of Children Totalling <= 10 Days	B. No. of Children Totalling > 10 Days	A. Total Removals	B. No. of Children Totalling 1 Day	C. No. of Children Totalling 2-10 Days	D. No. of Children Totalling > 10 Days
1. Mental Retardation	0	0	0	0	0	0	0	0	0	0	0	0	0
2. Hearing Impairments	0	0	0	0	0	0	0	0	0	0	0	0	0
3. Speech or Language Impairments	0	0	0	0	0	0	0	0	0	0	0	0	0

Section A: Removal by Disability – Part 1

Unilateral removals to IAES by school personnel and hearing officers

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In Section A, information is reported by disability category. In columns 1 through 5, States *must* report the number of children in each column by disability category.

In column 1A, report the number of children ages 3-21 who were unilaterally removed for drug or weapons offenses **or serious bodily injury** (as defined above) by school personnel (NOT the IEP team) from their current educational placement to an interim alternative educational setting (determined by the IEP team). Children with more than one unilateral removal should be counted only once in column 1A.

Columns 1B, 1C, and 1D are counts of removals. Each child reported in column 1A should be reported at least once in columns 1B, 1C, or 1D.

1. In column 1B, report the total number of times the children reported in column 1A were unilaterally removed for drug offenses, as defined above.
2. In column 1C, report the total number of times the children reported in column 1A were unilaterally removed for weapons offenses, as defined above.
3. In column 1D, report the total number of times the children reported in column 1A were unilaterally removed for inflicting serious bodily injury on another person

For questions regarding suspension/expulsion data, please contact Becky Cain, Special Education Programs
At 605- 280-3568 or via email at Rebecca.Cain@state.sd.us

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while at school, on school premises, or at a school function under the jurisdiction
of an SEA or LEA.

If a child reported in column 1A was unilaterally removed to an Interim Alternative Educational Setting more than once then this child should be counted more than once in columns 1B, 1C, or 1D. If, in the course of a single incident, a child committed more than one type of offense, then report the child in each of the appropriate columns. For example, if the child committed both a drug offense and a weapon offense during the same incident, report the drug offense in column 1B and report the weapon offense in column 1C. Every child reported in columns 1B, 1C, and/or 1D should be counted once, and only once, in column 1A.

Children who were removed from school by school personnel for drugs, weapons, or serious bodily injury for 10 days or less and were NOT sent to an Interim Alternative Educational Setting, should be reported as having been suspended. Do not include these children in column 1A.

Children who were removed from school by school personnel for drugs, weapons, or serious bodily injury and who were sent to an Interim Alternative Educational Setting for 45 days or less should be reported in column 1A. This includes children who were sent to an IAES for 10 days or less.

In column 2, report the number of children ages 3-21, who were removed to an interim alternative educational setting based on a hearing officer determination of likely injury to themselves or others. Children removed by a hearing officer more than once should be counted only once in column 2.

Remember to save after each part and section!

Section A: Removal by Disability – Part 2

**Out of School Suspensions and Expulsions
In-school Suspensions**

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SECTION A
Removal by disability

SECTION B
Removal by race/ethnicity

SECTION C
Removal by gender

SECTION D
Removal by LEP Status

SECTION E
Expansion with & without disability

Part 1 Part 2 Part 3

SECTION A
REPORT OF CHILDREN WITH DISABILITIES SUBJECT TO DISCIPLINARY REMOVAL
SCHOOL YEAR 2006 - 2007

SECTION A: REMOVAL BY DISABILITY

Disability	3. Out-of-School Suspensions or Expulsions		4. In-School Suspensions	
	A. Number of Children with Out-of-School Suspension/Expulsions Totalling 10 Days or Less	B. Number of Children with Out-of-School Suspension/Expulsions Totalling > 10 Days	A. Number of Children with In-School Suspensions Totalling 10 Days or Less	B. Number of Children with In-School Suspensions Totalling > 10 Days
1. Mental Retardation	0	0	0	0
2. Hearing Impairments	0	0	0	0
3. Speech or Language Impairments	0	0	0	0
4. Visual Impairments	0	0	0	0
5. Emotional Disturbance	0	0	0	0
6. Orthopedic Impairments	0	0	0	0
7. Other Health Impairments	0	0	0	0
8. Specific Learning Disabilities	0	0	0	0

Column 3 is a report of children ages 3-21 with out-of-school suspensions or expulsions.

In column 3A, report the number of children ages 3-21 with out-of-school suspensions or expulsions summing to 10 days or less during the school year for any offense or combination of offenses. No child should be reported more than once in column 3A.

In column 3B, report the number children ages 3-21 with out-of-school suspensions or expulsions summing to more than 10 days during the school year for any offense or combination of offenses. No child should be reported more than once in column 3B.

NOTE: No child should be reported in both column 3A and column 3B. The sum of 3A and 3B is the total number of children with out-of-school suspensions or expulsions during the school year.

Column 4 is a report of children ages 3-21 with in-school suspensions.

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1. In column 4A, report the number of children ages 3-21 with in-school suspensions summing to 10 days or less during the school year for any offense or combination of offenses. No child should be reported more than once in column 4A.
2. In column 4B, report the number of children ages 3-21 with in-school suspensions summing to more than 10 days during the school year for any offense or combination of offenses. No child should be reported more than once in column 4B.

Upon completion, click save button

NOTE: No child should be reported in both column 4A and column 4B. The sum of 4A and 4B is the total number of children with in-school suspensions or expulsions during the school year.

NOTE: If a child has both in-school and out-of-school suspensions in the same school year, that same child can be reported in both column 3A or 3B and column 4A or 4B.

A child should be counted in only one of the first three columns (1A, 2, or 3) for the same offense. If a child is unilaterally removed for drugs and reported in column 1A, then do NOT report the child again in column 3 for the same incident. Similarly, if a child is removed by a hearing officer for likely injury and is reported in column 2, then do NOT report the child again in column 3 for the same incident.

A child who is subject to both an in-school and an out-of-school suspension for the same offense should be reported in both columns 3 and 4.

A child with more than one offense could be counted in more than one column (1A, 2, or 3). For example, a child who was unilaterally removed to an interim alternative educational setting and, later in the school year, was subject to an out-of-school suspension for more than 10 school days for a separate offense, should be reported in both column 1A and column 3.

Section A: Removal by Disability – Part 3

Disciplinary Removals

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SECTION A: Removal by disability
SECTION B: Removal by race/ethnicity
SECTION C: Removal by gender
SECTION D: Removal by LEP Status
SECTION E: Expansion with & without disability

Part 1 Part 2 Part 3

SECTION A
REPORT OF CHILDREN WITH DISABILITIES SUBJECT TO DISCIPLINARY REMOVAL
SCHOOL YEAR 2006 - 2007

SECTION A: REMOVAL BY DISABILITY

Disability	5. Disciplinary Removals			
	A. Total Disciplinary Removals	B. Number of Children with Disciplinary Removals Totalling 1 Day	C. Number of Children with Disciplinary Removals Totalling 2 - 10 Days	D. Number of Children with Disciplinary Removals Totalling > 10 Days
1. Mental Retardation	0	0	0	0
2. Hearing Impairments	0	0	0	0
3. Speech or Language Impairments	0	0	0	0
4. Visual Impairments	0	0	0	0
5. Emotional Disturbance	0	0	0	0
6. Orthopedic Impairments	0	0	0	0
7. Other Health Impairments	0	0	0	0
8. Specific Learning Disabilities	0	0	0	0
9. Deaf/Blindness	0	0	0	0

Column 5 is a report of disciplinary removals. In column 5A, report the number of times any child with a disability was subject to any kind of disciplinary removal during the school year. When counting disciplinary removals, include in-school suspensions, out-of-school suspensions, expulsions, removals by school personnel to an interim alternative educational setting for drug or weapon offenses or serious bodily injury, and removals by hearing officer for likely injury to self or others.

Note that column 5A is a report of disciplinary events, NOT children. If a child has more than one disciplinary removal in the school year, then each removal should be reported in column 5A.

Report each child with a disciplinary removal only once in either column 5B, 5C, or 5D according to the cumulative number of days of removal during the school year.

1. In column 5B, report any child whose cumulative length of removal during the school year totaled 1 day or less.
2. In column 5C, report any child whose cumulative length of removal during the school year totaled between 2 and 10 days.

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3. In column 5D, report any child whose cumulative length of removal during the school year totaled more than 10 days.

All children reported in columns 5B through 5D should have one or more disciplinary removals reported in column 5A. For example, a child who was suspended three times for three days each during the school year (a total of 9 days) should be reported 3 times in column 5A and once in column 5C.

NOTE: The sum of 5B, 5C, and 5D is the total number of children with one or more disciplinary removals during the school year. Each child reported in columns 1A, 2, 3, or 4 should be reported only **ONCE** in column 5B, 5C, or 5D, based on the cumulative number of days the child was removed during the school year.

REMEMBER: Click on the SAVE button after the completion of **EACH** of the 3 parts of the table.

Remember to save after each part and section!

Section B – Removed by Race and Ethnicity – Part 1, 2, 3

Same as Section A except information by Race and Ethnicity

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SECTION A: Removal by disability
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SECTION C: Removal by gender
SECTION D: Removal by LEP Status
SECTION E: Expansion with & without disability

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SECTION B
REPORT OF CHILDREN WITH DISABILITIES SUBJECT TO DISCIPLINARY REMOVAL
SCHOOL YEAR 2006 - 2007

SECTION B: REMOVAL BY RACE/ETHNICITY

Disability	A. Number of Children	B. Number of Removals for Drugs	C. Number of Removals for Weapons	D. Number of Removals for Serious Bodily Injury	Number of Children
1. American Indian or Alaska Native	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
2. Asian or Other Pacific Islander	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
3. Black, Non-Hispanic	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
4. Hispanic	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
5. White, Non-Hispanic	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
6. Total	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

2. Removals to an Interim Alternative Educational Setting Based on a Hearing Officer Determination Regarding Likely Injury

Section B: Disciplinary Removal Type by Race/Ethnicity

The columns found in Section A are repeated in Section B. In Section B, however, data are reported by race/ethnicity categories. States *must* report the number of children in columns 1, 2, 3, and 5 by race/ethnicity.

In October 1997, OMB issued standards for the collection and aggregation of data on race and ethnicity (see "Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity"). In that announcement, OMB identified a minimum of five racial categories -- American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White -- and one ethnic category -- Hispanic or Latino. Additionally, OMB announced that individuals should be allowed to select as many race/ethnicity categories as were applicable. This data collection allows for the reporting of only one race or ethnicity category per individual and is therefore not in compliance with these standards. OSEP and the Department of Education (ED) are considering changes to the categories used for reporting aggregate data to bring this collection into compliance with OMB's standards. For the time being, data should be reported using the five racial categories described below.

The race/ethnicity categories are defined as follows:

The race/ethnicity categories are defined as follows:

American Indian or Alaska Native

A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal

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affiliation or community attachment.

Asian or Other Pacific Islander	A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This includes, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, Vietnam, Hawaii, Guam, and Samoa.
Black (not Hispanic)	A person having origins in any of the Black racial groups of Africa.
Hispanic	A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
White (not Hispanic)	A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
Total	The unduplicated total across the race/ethnicity designations.

Note that children can only be reported in *one* race/ethnicity category.

Remember to save after each part and section!

Section C – Removed by Gender – Part 1, 2, 3

Same as Section A except by gender

For questions regarding suspension/expulsion data, please contact Becky Cain, Special Education Programs
At 605- 280-3568 or via email at Rebecca.Cain@state.sd.us

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SECTION A: Removal by disability
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SECTION C
REPORT OF CHILDREN WITH DISABILITIES SUBJECT TO DISCIPLINARY REMOVAL
SCHOOL YEAR 2006 - 2007

SECTION C: REMOVAL BY GENDER

Disability	1. Unilateral Removals to an Interim Alternative Educational Setting by School Personnel				2. Removals to an Interim Alternative Educational Setting Based on a Hearing Officer Determination Regarding Likely Injury Number of Children
	A. Number of Children	B. Number of Removals for Drugs	C. Number of Removals for Weapons	D. Number of Removals for Serious Bodily Injury	
1. Male	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>
2. Female	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>
3. Total	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>

Section C: Disciplinary Removal Type by Gender

The columns found in Section A are repeated in Section C. In Section C, States *must* report data in columns 1, 2, 3, and 5 by gender.

Section D – Removed by LEP status – Part 1, 2, 3

Same as Section A except by LEP status

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SECTION A Removal by disability
SECTION B Removal by race/ethnicity
SECTION C Removal by gender
SECTION D Removal by LEP Status
SECTION E Expansion with & without disability

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SECTION D
REPORT OF CHILDREN WITH DISABILITIES SUBJECT TO DISCIPLINARY REMOVAL
SCHOOL YEAR 2006 - 2007

SECTION D: REMOVAL BY LEP STATUS

Disability	A. Number of Children	B. Number of Removals for Drugs	C. Number of Removals for Weapons	D. Number of Removals for Serious Bodily Injury	Number of Children
1. Yes	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>
2. No	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>
3. Total	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>

2. Removals to an Interim Alternative Educational Setting Based on a Hearing Officer Determination Regarding Likely Injury

Save

Section D: Disciplinary Removal Type by Limited English Proficiency Status

The columns found in Section A are repeated in Section D. In Section D, States *must* report data in columns 1, 2, 3, and 5 by limited English proficiency status.

Limited English Proficient. A child who meets the definition of a limited English proficient child under the Elementary and Secondary Education Act, 20 U.S.C Section 7801(A)(25).

LEP status should reflect the child's status at the time of the removal.

Remember to save after each part and section!

Section E – Expulsion With and Without Disability

For questions regarding suspension/expulsion data, please contact Becky Cain, Special Education Programs
At 605- 280-3568 or via email at Rebecca.Cain@state.sd.us

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SECTION E
REPORT OF CHILDREN WITH DISABILITIES SUBJECT TO DISCIPLINARY REMOVAL
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SECTION E: EXPULSION WITH AND WITHOUT DISABILITY

	6. Children Subject to Expulsion	
	A. Received Educational Services During Expulsion	B. Did Not Receive Educational Services During Expulsion
1. Children with Disabilities Ages 3-21	<input type="text" value="0"/>	<input type="text" value="0"/>
2. Children without Disabilities, Grades K-12	<input type="text" value="0"/>	<input type="text" value="0"/>
3. Total	<input type="text" value="0"/>	<input type="text" value="0"/>

Save

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Section E. Children Subject to Expulsion With and Without Educational Services by Disability Status

In column 6A, States *must* report the number of children with disabilities ages 3-21 and the number of children without disabilities in grades K through 12 who were subject to expulsion (as defined above in Selected Definitions) during the school year and who received educational services during the expulsion.

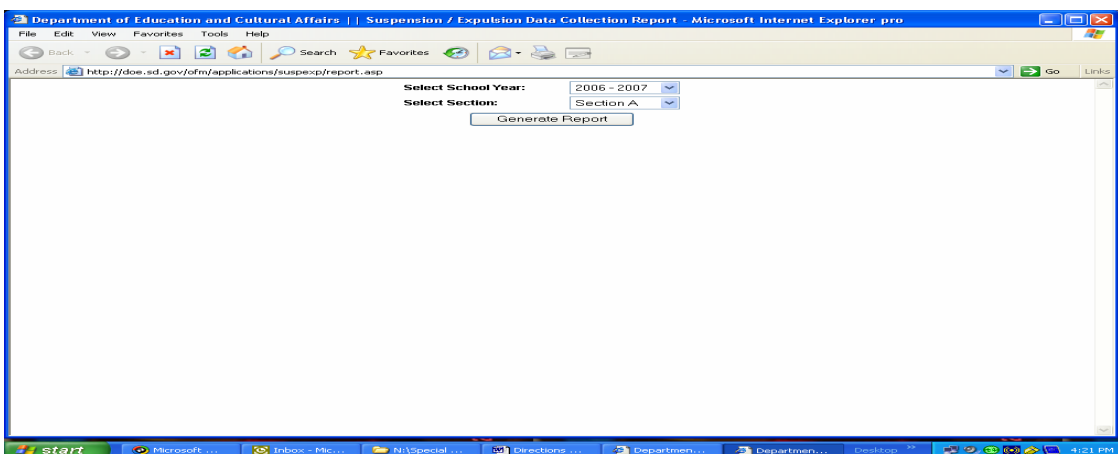
In column 6B, States *must* report the number of children with disabilities ages 3-21 and the number of children without disabilities in grades K through 12 who did NOT receive educational services during the removal.

NOTE: Children with disabilities must receive educational services during any removal of more than 10 school days. The only children with disabilities who should be reported in column 6B are those who were removed for less than 10 school days after an expulsion (e.g., children with disabilities expelled under the Gun-Free Schools Act whose expulsions were modified to less than 10 school days).

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Remember to save after each part and section!

Generate Reports



Top right hand side of the screen, the district can print a copy of each section in its entirety.

- Click on “generate report”
- Select the year you would like to view (beginning 2006/2007 school year)
- Select the section you would like to view (A through E)
- Click on generate report

Logging Off

TO EXIT THE DATA COLLECTION PROCESS:

Upon completion of all data tables, click on LOG OFF DATA COLLECTION. This appears at the top right side of the screen page

IMPORTANT POINTS TO REMEMBER:

- IF THERE IS NO DATA TO ENTER – simply SAVE the table– this will submit the value of zero for all cells in that table. **Be sure to go into all tables – A through E.**
- Each cell must have a value, zero (0) or higher. **Do not leave cells blank.** Cells are preloaded with the number zero (0).
- At the completion of each data table, click on the SAVE button. Data must be submitted by table. If data is not submitted, the information will not be recorded and the table will be blank.
- Data is to be submitted following the completion of the school year. Do not begin data submission until the school year is over.
- The deadline for online data submission is **June 30th, 2007.**

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APPENDIX B
ARSD and Definitions

ARSD 24:07:01:01.(1) “Expulsion”, the action of the school board that terminates a pupil’s membership in school for not more than 12 consecutive months.

ARSD 24:07:01:01.(2) “Long-Term suspension”, the exclusion of a pupil by the superintendent or school board from a class or classes or from school for more than 10 but not more than 90 school days.

Authority of School Personnel/Hearing Officer

Sec. 300.530 Authority of school personnel.

(a) Case-by-case determination. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.

(b) General.

(1) School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under Sec. 300.536).

(2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under paragraph (d) of this section.

(c) Additional authority. For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to paragraph (e) of this section, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in paragraph (d) of this section.

(d) Services.

(1) A child with a disability who is removed from the child's current placement pursuant to paragraphs (c), or (g) of this section must--

(i) Continue to receive educational services, as provided in Sec. 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(ii) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

(2) The services required by paragraph (d)(1), (d)(3), (d)(4), and (d)(5) of this section may be provided in an interim alternative educational setting.

(3) A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

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(4) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement under Sec. 300.536, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed, as provided in Sec. 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

(5) If the removal is a change of placement under Sec. 300.536, the child's IEP Team determines appropriate services under paragraph (d)(1) of this section.

(e) Manifestation determination.

(1) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine--

(i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.

(2) The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.

(3) If the LEA, the parent, and relevant members of the child's IEP Team determine the condition described in paragraph (e)(1)(ii) of this section was met, the LEA must take immediate steps to remedy those deficiencies.

(f) Determination that behavior was a manifestation. If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must--

(1) Either--

(i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

(ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

(2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

(g) Special circumstances. School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child--

(1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of an SEA or an LEA;

(2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA; or

(3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of an SEA or an LEA.

(h) Notification. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in Sec. 300.504.

(i) Definitions. For purposes of this section, the following definitions apply:

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(1) Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

(2) Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

(3) Serious bodily injury has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

(4) Weapon has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

(Authority: 20 U.S.C. 1415(k)(1) and (7))

§300.521 Authority of hearing officer:

A hearing officer under section 615 of the Act may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer, in an expedited due process hearing -

(a) Determines that the public agency has demonstrated by substantial evidence that maintaining the current placement of the child is substantially likely to result in injury to the child or to others;

(b) Considers the appropriateness of the child's current placement;

(c) Considers whether the public agency has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and

(d) Determines that the interim alternative educational setting that is proposed by school personnel who have consulted with the child's special education teacher, meets the requirements of §300.522(b).

(e) As used in this section, the term substantial evidence means beyond a preponderance of the evidence.

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Appendix A
OSEP Data Dictionary Definitions

Selected Definitions (See OSEP Data Dictionary for Additional Definitions)

The race/ethnicity categories are defined as follows:

American Indian or Alaska Native	A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.
Asian or Other Pacific Islander	A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This includes, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, Vietnam, Hawaii, Guam, and Samoa.
Black (not Hispanic)	A person having origins in any of the Black racial groups of Africa.
Hispanic	A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.
White (not Hispanic)	A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
Total	The unduplicated total across the race/ethnicity designations.

Dangerous Weapon – A weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that such a term does NOT include a pocket knife with a blade of less than 2½ inches in length (18 U.S.C. Section 930(g)(2)).

Disciplinary Removal – Any instance in which a child is removed from his/her educational placement for disciplinary purposes, including in-school suspension, out-of-school suspension, expulsion, removal by school personnel to an interim alternative educational setting for drug or weapon offenses or serious bodily injury, and removal by hearing officer for likely injury to self or others.

Drug Offenses – The use, possession, sale, or solicitation of drugs as identified in 21 U.S.C. Section 812(c). These offenses do NOT include use, possession, sale, or solicitation of alcohol or tobacco.

Expulsion – An action taken by the local educational agency removing a child from his/her regular school for disciplinary purposes for the remainder of the school year or longer in accordance with local educational agency policy. Include removals resulting from violations of the Gun Free Schools Act that are modified to less than 365 days.

In-School Suspension – Instances in which a child is temporarily removed from his/her regular classroom(s) for disciplinary purposes but remains under the direct supervision of school personnel. Direct supervision means school personnel are physically in the same location as students under their supervision.

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Interim Alternative Educational Setting – An appropriate setting determined by the child's IEP team in which the child is placed for no more than 45 school days. This setting enables the child to continue **to receive educational services and** participate in the general education curriculum **(although in another setting) and to progress toward meeting** the goals set out in the IEP. **As appropriate, the setting includes a functional behavioral assessment and behavioral intervention services and modifications to address the behavior violation so that it does not recur.**

Out-of-School Suspension – Instances in which a child is temporarily removed from his/her regular school for disciplinary purposes **to another setting (e.g., home, behavior center). This includes both removals in which no IEP services are provided because the removal is 10 days or less as well as removals in which the child continues to receive services according to his/her IEP.**

Removal by a Hearing Officer – Those instances in which an impartial hearing officer orders the removal of children with disabilities from their current educational placement to an appropriate alternative educational setting for not more than 45 school days based on the hearing officer's determination that maintaining the child's current placement is substantially likely to result in injury to the child or others. **The IEP team is responsible for determining the interim alternative educational setting.**

Serious Bodily Injury – A bodily injury that involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ or faculty (18 U.S.C. Section 1365(3)(h)).

Unilateral Removal – Instances in which school personnel (not the IEP team) order the removal of children with disabilities from their current educational placement to an appropriate interim alternative educational setting for not more than 45 school days. The IEP team is responsible for determining the interim alternative educational setting. Unilateral removals do NOT include decisions by the IEP team to change a student's placement.